

ORDINANCE NO. 4247

**AN ORDINANCE AMENDING ORDINANCE NO. 4189
PERTAINING TO PROCEDURES AND FEES FOR PRODUCTION OF
OPEN PUBLIC RECORDS**

Be it ordained by the Governing Body of the City of Independence, Kansas:

Section 1. Repeal

Ordinance No. 4189 is repealed and replaced by the provisions of this ordinance.

Section 2. Purpose

It is the purpose of this ordinance to establish reasonable fees and charges for the providing of access to or copies of open public records as defined in the Kansas Open Records Act, KSA 45-215, et seq, as amended, in the possession of the City to avoid the necessity of using general public funds of the City to subsidize special services and benefits to a record requestor. The official records custodian for the City shall be the City Clerk unless otherwise designated by the City Manager. It shall be the duty of the records custodian to ensure compliance with the Kansas Open Records Act and the provisions of City ordinances applicable thereto. The records custodian shall periodically recommend to the Governing Body such changes in this ordinance as may be necessary to secure this purpose.

Section 3. Inspection Fee

(a). Where a request has been made for providing access to and inspection of any open public record which is readily available to the records custodian, there shall be no inspection fee charged to the requestor.

(b). In all cases not covered by (a) of this section, an inspection fee, and all



other applicable fees, shall be charged as established by the Governing Body and set forth in Appendix D to the City Code.

Section 4. Cost of Staff Time

The cost of staff time shall be charged to the requestor except as provided in Section 3(a). The records custodian shall be charged with determining the cost of staff time to be charged to the requestor. The formula to determine cost of staff time shall be the annual salary or wages of the staff person conducting the record search divided by 2,080 hours times the number of hours of the record search. The calculation of the hourly rate to be charged shall be made by the records custodian on an as-needed basis based upon the most recent salary information available. The cost of staff time shall include all time spent by City staff in receiving and reviewing the initial request, contact time with the requesting party, review and search time for the records requested, time spent in production of the records in a format to be provided to the requesting party, and any follow up or other contact with the requesting party pertaining to the request.

Section 5. Copying Fee

In addition to the cost of staff time, the requestor shall be charged a copying fee as established by the Governing Body and set forth in Appendix D to the City Code. A requesting party may request that the documents be provided either in hard copy format or electronically. However, the final decision on the method of producing the requested documents shall be made by the records custodian.

Section 6. Prepayment of Fees

(a). The records custodian may require prepayment of the fees established by this ordinance whenever it is felt to be in the best interests of the City as determined by the records

custodian. The prepaid amount shall be an estimate of all fees determined to be applicable in fulfilling the request. No further action shall be required to fulfill the request until such time as prepayment is made. Once prepayment has been made, the search for the record(s) shall begin and production of the record(s) shall then be made consistent with this ordinance. Any overage or underage of the prepayment amount shall be settled prior to final inspection of the requested records or delivery of the requested copies.

(b). Prepayment of fees shall be required when, in the best estimation of the records custodian, such fees will exceed \$30.00.

(c). Where prepayment has been demanded by the records custodian, no open public records shall be made available to the requestor until such prepayment has been made.

Section 7. Commercial Use Prohibited

When determined applicable in the sole discretion of the records custodian, the requestor shall be required to sign an affidavit stating that the public records requested by the requestor shall not be used for commercial purposes in violation of KSA 45-230 before any public records are made available to the requestor.

Section 8. Payment

All fees charged under this ordinance shall be paid to the records custodian unless the requestor has established an account for purposes of billing and payment with the City.

Section 9. Effective Date

This ordinance shall take effect upon its publication in the official City newspaper.

State of Kansas, Montgomery County
This instrument was filed for
Record on August 1, 2017 1:58 PM
Recorded in Book 661 Page 1456- 1459
Fee: \$0.00 201702561

Marilyn Calhoun
Marilyn Calhoun, Register of Deeds



Adopted by the Governing Body of the City of Independence, Kansas, on the 13th day of July, 2017.



ATTEST:

Michael C. Borovetz
Mike Borovetz, City Clerk

Fred D. Meier
Fred D. Meier, Mayor

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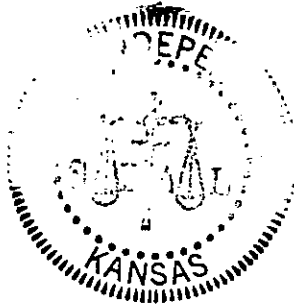
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